

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Asheville Division

In re:)		
	)	Case no.	17-10397
BAITY'S PRECISION)		
MACHINING, INC.,	)	Chapter	11
)		
Debtor.)		

NOTICE OF HEARING

TAKE NOTICE that the Debtor's MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING DEBTOR'S USE OF CASH COLLATERAL, AND (B) GRANTING REPLACEMENT LIENS, AND MEMORANDUM IN SUPPORT will come on for hearing on September 19, 2017 at 9:30 am, in the United States Bankruptcy Court, 100 Otis Street, Asheville, NC, 28801.

This Notice is subject to entry of an Order on the Debtor's Motion for Hearing on Shortened Notice, filed in conjunction with this Notice.

THIS 18th day of September, 2017.

KIGHT LAW OFFICE, PC

By: /s/ D. Rodney Kight, Jr.
D. Rodney Kight, Jr.
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UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Asheville Division

In re:)		
	)	Case no.	17-10397
BAITY'S PRECISION)		
MACHINING, INC.,	)	Chapter	11
)		
Debtor.)		

**MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING DEBTOR'S USE
OF CASH COLLATERAL, AND (B) GRANTING REPLACEMENT LIENS,
AND MEMORANDUM IN SUPPORT**

NOW COMES Baity's Precision Machining, Inc. ("Debtor"), by and through its undersigned attorney, moving the Court pursuant to 11 U.S.C. §§ 105(a), 361, 363(c)(2) and (e) and Fed. R. Bankr. P. 4001(b) and 9014 for an order authorizing Debtor to use cash collateral on which TD Bank, HomeTrust Bank, and Entegra Bank, (collectively "Lenders") assert a security interest and lien. Debtor proposes to use the monies on hand at the Petition Date and generated from operation, which is absolutely necessary for the continuation of Debtor's business. Debtor asserts the following in support of this Motion:

JURISDICTION

1. The Debtor filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code on September 15, 2017 (the "Petition Date"). The Debtor filed its petition in the Western District of North Carolina ("WDNC"), Asheville Division. The Case was assigned to the Honorable George Hodges.
2. The Debtor is a North Carolina corporation. It is operating its business and managing its assets in Asheville, North Carolina, as debtor in possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.

3. This Court has subject matter jurisdiction over the Motion pursuant to 28 U.S.C. §1334.
4. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A). The Court can exercise its subject matter jurisdiction pursuant to 28 U.S.C. §157(b)(1).
5. Venue of these proceedings and the Motion is proper in this district pursuant to 28 U.S.C. §§1408 and 1409.
6. The statutory basis for relief requested herein are 11 U.S.C. §§ 105(a), 361, 363(c)(2) and (e) and Bankruptcy Rules 4001(b) and 9014.

BACKGROUND

7. The Debtor is a machining business located in Asheville, Buncombe County, North Carolina. It has been in business for over 35 years. It specializes in precision, high-tech machining of new and replacement parts for a variety of industries, including high speed packaging, medical device components, transportation, machinery builders, polymer textiles, chemicals, and gas and flow control valves. The equipment it uses is unique and requires technical expertise to operate. Currently, the debtor employs 10 individuals. The debtor was formed by Bill and Carolyn Baity in 1981. The current principal, Mark Shepherd (“Shepherd”), acquired the debtor through a purchase agreement in 2008. Shepherd has deep business experience. He graduated from McMaster University, a prestigious business school located in Hamilton, Canada¹, and has operated multiple successful companies for over 30 years. The Debtor struggled financially during the market downturn which occurred almost immediately after Mr. Shepherd acquired it. Despite the downturn, Shepherd was able to keep the Debtor, and another machining business he acquired, AvTech, Inc., in business throughout the recession. The Debtor moved to a new facility in the Spring of 2017, restructured its operations, and has

¹ According to its [website](#), McMaster was recently rated one of the top 100 universities in the world.

ramped up its business and revenues considerably in 2017. Unfortunately, and despite significant efforts and a revenue stream that increases monthly, the Debtor was unable to resolve a secured debt obligation with HomeTrust Bank that has reached its term. It was therefore forced to file for relief under Title 11 in order to protect its assets and remain in business. The Debtor will propose a plan of reorganization.

8. The Debtor believes that Lenders hold claims as set forth below.

a. TD Bank holds a claim in the approximate amount of \$125,000.00, secured by a UCC financing statement filed on January 26, 2017 in North Carolina (document number 20120008230K). A continuation statement was filed on August 11, 2016 (document number 20160082299M). On information and belief, Lender's security interest may impair the debtor's cash and other liquid assets (the "Cash Collateral").

b. HomeTrust Bank holds a claim in the approximate amount of \$485,000.00, secured by UCC financing statements filed on November 19, 2015 in North Carolina (document numbers 20140107835B and 20140107837E). On information and belief, Lender's security interest may impair the debtor's cash and other liquid assets (the "Cash Collateral").

c. Entegra Bank holds a claim in the approximate amount of \$unknown², secured by a UCC financing statement filed on March 6, 2017 in North Carolina (document number 20170022266K). This loan was made to another entity for the purchase of the commercial real estate that the Debtor leases and from which it operates and Entegra Bank holds a deed of trust. The real estate's value is significantly in excess of the claim amount. Debtor is a co-obligor on the loan and believes that Lender's security interest may impair the debtor's cash and other liquid assets (the "Cash Collateral").

² The Debtor was a co-obligor on financing for the acquisition of, and improvements to, a commercial parcel of real estate. It currently leases the premises. The Debtor is uncertain what portion of the total financing it guaranteed.

9. The Debtor's use of Cash Collateral in this case is necessary for the continued operation of its business. Debtor needs to pay operational expenses, such as payroll, utilities, and insurance.

10. Debtor proposes to use the Cash Collateral as described in the budget attached hereto as Exhibit A (the "Budget"). Specifically, Debtor proposes to pay only those expenses itemized Budget. Debtor also requests permission to exceed any line item in the Budget that contains a dollar amount as long as Debtor does not exceed the overall amount requested in the Budget. If surplus funds are available from Cash Collateral after payment of those expenses set forth in Exhibit A, then such funds will be held by the Debtor pending further order of the Court.

RELIEF REQUESTED

11. As adequate protection for the use of Lender's Cash Collateral, Debtor agrees to provide Lender with replacement liens on post-petition Cash Collateral to the same extent and priority as its pre-petition liens, for the extent of any post-petition diminution in the pre-petition Cash Collateral as well as replacement liens on all other property that may be acquired post-petition by the Debtor with such replacement liens having the same extent and priority as Lenders' prepetition liens on such property.

12. Section 363(c)(2) provides that the Debtor may use Cash Collateral if each entity that has an interest in such Cash Collateral consents or if the court authorizes such use after notice and hearing. Among the non-exclusive examples of adequate protection found in §361 is a replacement lien to the extent that use of collateral results in a decrease in its value.

13. Use of Cash Collateral is necessary in order for the Debtor to maintain its business operations. As the Debtor is continually receiving income from the operation of its business, Cash Collateral is continually being replenished. Therefore, Debtor believes

that granting replacement liens to Lender will adequately protect Lender's interest in the Debtor's assets.

14. Lenders have not yet consented to Debtor's use of Cash Collateral according to the terms set forth herein and the proposed interim order on use of cash collateral filed simultaneously herewith.

WHEREFORE, having shown that Debtor's continuing use of Cash Collateral for its ongoing operations is absolutely necessary, Debtor seeks interim and final orders authorizing use of such Cash Collateral and requests such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED on this the 18th day of September, 2017.

KIGHT LAW OFFICE, PC

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UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Bryson City Division

In re:)		
	)	Case no.	17-10230
ROCKY-NOLE, INC.,)		
	)	Chapter	11
Debtor.)		

CERTIFICATE OF SERVICE

The undersigned attorney for the Debtor hereby certifies that a copy of the NOTICE OF HEARING, the MOTION FOR INTERIM AND FINAL ORDERS (A) AUTHORIZING DEBTOR'S USE OF CASH COLLATERAL, AND (B) GRANTING REPLACEMENT LIENS, AND MEMORANDUM IN SUPPORT, and any exhibits filed with the aforementioned pleadings were this day served upon the secured lenders as set forth below.

THIS 18th day of September, 2017.

KIGHT LAW OFFICE, PC

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% Corporation Service Company
2626 Glenwood Avenue, Suite 550
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HomeTrust Bank and Entegra Bank
% Mark Pinkston- via cm/ecf

Alexandria Kenny for the Bankruptcy Administrator
via cm/ecf